

although rare, are considered not in danger of extinction in the foreseeable future.

**DATE:** The withdrawal is effective October 25, 1983.

**ADDRESS:** The complete file for this notice is available for inspection by appointment during usual business hours at the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Dyer, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617/965-5100, extension 316).

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 12 of the Endangered Species Act of 1973 (the Act) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the *Federal Register* (40 FR 27823-27924) of his acceptance of the report of the Smithsonian Institution as a petition and of his intention thereby to review the status of the plant taxa named within. *Paronychia argyrocoma* var. *albimontana* was included in the July 1975 notice of review. The taxon was proposed as Threatened on October 27, 1980 (45 FR 70949-70952). In accord with Section 2(b)(1) of the 1982 amendments (Pub. L. 97-304) to the Act, the proposal is treated as if it were proposed October 13, 1982.

The taxon has been documented from a total of approximately 27 locations in New England since its first collection in the early 1800's. Fourteen of these sites have been verified in recent years. Nine of the existing sites occur in New Hampshire, four in Maine, and one in Massachusetts. Five sites formerly occupied by the variety in New Hampshire have been examined and no plants were found. Poor locality information from herbarium specimens has precluded surveys of other reported sites. Nine of the 14 known sites occur on rock ledges, in crevices, and on mountain tops within the White Mountain National Forest, which is public land administered by the U.S. Forest Service. Other sites are on State land in all three States, and on private land in New Hampshire and Maine.

**50 CFR Part 17**

**Endangered and Threatened Wildlife and Plants; Notice of Withdrawal of Proposed Rule for *Paronychia argyrocoma* var. *albimontana* (Silverling) To Be a Threatened Species**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Service withdraws the proposed rule in the October 27, 1980, *Federal Register* that had proposed the silverling (*Paronychia argyrocoma* var. *albimontana*) to be a Threatened species. The taxon was stated to occur in Maine, New Hampshire, and Massachusetts. The proposal is withdrawn because of new data that indicate the name does not represent a good taxonomic entity. In addition, the New England populations of the species,

## Taxonomy

In commenting on the proposal, botanists at the New York Botanical Garden brought to the Service's attention two articles relating to the genus *Paronychia*: one by Core (1941), the other by Chaudhri (1968). Core maintains the varieties of *P. argyrocoma*, stating "Fernald (Rhodora 8:103, 1906) has separated the northern form as the variety *albimontana*," and giving differentiating characteristics. The distribution of *Paronychia argyrocoma* var. *albimontana* is given as western Maine, New Hampshire, and Massachusetts. Chaudhri, in his 1968 revision of the *Paronychiinae*, maintains the use of two distinct varieties, *Paronychia argyrocoma* var. *argyrocoma* and *P. argyrocoma* var. *albimontana*; however, he includes parts of North Carolina, Tennessee, and Georgia in the range of *P. argyrocoma* var. *albimontana*. This is the only known instance where specimens of *P. argyrocoma* var. *albimontana* have been cited from areas outside of New England; botanists in the south have generally either been unaware of or not followed Chaudhri's treatment.

In evaluating Chaudhri's revision, field work was conducted in 1982 at northern and southern sites of the species, and herbarium specimens of the species were borrowed by the Service. The taxonomic analysis was conducted by Dr. Andrew F. Robinson, a botanist formerly in the Service's Atlanta Regional Office and now in the Portland, Oregon, regional Office (503/231-6131); he plans to submit a scientific paper on his study to an appropriate botanical journal. His conclusion is that *Paronychia argyrocoma* (Michx.) Nutt. var. *albimontana* Fernald (*P. argyrocoma* ssp. *albimontana* [Fernald] Maguire) is not a good taxon. He found that the reported taxonomic characters of leaf pubescence and pubescence of awns of the calyx were not consistent characters useful in separating the varieties, because pubescence varied too greatly within individual plants, between plants, and between populations. The reported taxonomic character of flower length also proved inadequate. He found flowers generally smaller in the northern populations compared to those in southern States, and flowers smaller at higher latitudes within the northern States. However, he also found smaller flowers with higher elevations in the south, and plants at 5000 feet on Mt. Pisgah, North Carolina, could not be differentiated from those in the north. He considers flower length to be an ecocline response to latitude or altitude. He could find no one character

or combination of characters that can be consistently used to separate the two varieties taxonomically, and thus concludes that Fernald's variety is untenable.

## Vulnerability

The proposed rule indicated trampling by hikers as the main threat to the variety in New England, with additional threats of rock climbers, possible collecting for scientific purposes or by wildflower enthusiasts, and loss of colonies because of natural factors.

The definition of "species" in section 3(16) of the Act precludes the listing of plant population segments that are not also distinct species, subspecies, or varieties (see also 43 FR 17912). Furthermore, after 1983 field work by the Service and further evaluation of all information on the proposed taxon, it is concluded that the New England populations of the species are rare but not in danger of extinction now or in the foreseeable future. Several recently contacted New England botanists agree with this conclusion. Field work was conducted in conjunction with the U.S. Forest Service in Maine and New Hampshire in the White Mountain National Forest. For example, on Caribou Mountain, Maine, healthy vigorous plants in various age classes were found, with many in 2-3-inch crevices of limited access to hikers and rock climbers. Trampling did not seem to be causing any significant damage. In addition, collecting does not seem to be an actual threat to the survival of New England populations; scientific collecting is extremely limited and occasional, and interest and collecting by wildflower enthusiasts also is considered a very rare event.

## Comments and Protection

Through January 29, 1981, comments supporting the proposed rule were received from the Governor of Maine, the New Hampshire Fish and Game Department, and the Massachusetts Department of Fisheries, Wildlife and Recreational Vehicles, as well as the Massachusetts Natural Heritage program and the Northern New England regional Office of the Appalachian Mountain Club. However, these commenters have not previously been advised of the Service's more recent taxonomic research and field work, which could change their recommendations. Nine of the 14 known sites of *Paronychia argyrocoma* in New England are on public land in White Mountain National Forest. The official comments of the U.S. Forest Service were that "it is premature to list the species" and that "our policy and

management will protect this species from the need to be federally listed. The species is being added to the Regional sensitive species list to provide such protection." The Forest Service's regulations governing the land on which several of the New Hampshire and Maine populations occur prohibit removing, destroying, or damaging any plant that is classified as a threatened, endangered, rare, or unique species (36 CFR 261.9). Also, the Forest Service has developed a 10-year management plan for alpine areas in the White Mountain National Forest that fully recognizes the significance and sensitivity of the alpine environment, including much of the habitat of *Paronychia argyrocoma*. We appreciate the efforts of the Appalachian Mountain Club in helping to conserve populations of this species, specifically in working with the U.S. Forest Service in planning trail work to avoid conflicts with plant populations, and in working to educate the public concerning the fragile nature of its ecosystems. These programs will contribute significantly to the protection of vulnerable populations of this plant.

Although *Paronychia argyrocoma* var. *albimontana* appears on State lists that were developed by botanists in Maine, New Hampshire, and Massachusetts, no State legislation currently offers the species direct protection in any of these States. In Maine, several land use planning laws provide protection to rare plants indirectly through zoning regulations. Title 12 of the Maine Revised Statutes, Chapter 10, designates zoning rules and regulations administered by the Land Use Regulatory Commission. These regulations provide for zoning in specific "resource protection districts" within unorganized territories. Resource protection districts include shorelands, wetlands, floodplains, high elevation areas (above 2700'), historical areas, archeological areas, and the like. Zoning regulations and a permit system would be implemented if an activity would adversely impact such areas (Title 12 Section 4811-14). Since *Paronychia* populations occur in some of these areas protected by zoning laws, as well as on land managed by the U.S. Forest Service, portions of the habitat of the species are offered some protection under Maine law. Also, the Maine Critical Areas Program (Title 5, Chapter 312, Section 3310-3314), though non-regulatory, provides protection to unique areas through consultation with private landowners, and Maine populations of the *Paronychia* are being considered for this program.

The single Massachusetts population of the species is on an island maintained as a State Wildlife Sanctuary, and regulations prohibit the picking or disturbing of wild plants and their habitats. Two Massachusetts State laws (Massachusetts General Laws Chapter 2 Section 7, and Chapter 266 Section 116a) protect certain other, named plant species directly.

The Service recognizes that the New England populations of *Paronychia argyrocoma* are rare, and considers some precautionary protection and management at the State level appropriate to avoid their decline to a more precarious status.

#### Finding and Withdrawal

In compliance with sections 4(b)(6)(A)(i)(IV) and 4(b)(6)(B)(ii) of the Act, as amended, the Service hereby withdraws the proposed rule of October 27, 1980 (45 FR 70949) on *Paronychia argyrocoma* var. *albimontana* because it is considered a synonym of *Paronychia argyrocoma*. The species in its entire range is not appropriate as a candidate for the Federal Endangered Species Act.

#### References

- Chaudhri, M.N. 1968. A revision of the Paronychiinae. Mededelingen van het Botanisch Museum en Herbarium van de Rijksuniversiteit te Utrecht No. 285, pp. 159-160.

Core, E.L. 1941. The North American species of *Paronychia*. Amer. Midl. Nat. 26(2):369-397.

#### Authors

The primary authors of this notice are Dr. Bruce MacBryde in the Service's Office of Endangered Species in Washington (703/235-1975; FTS 8/235-1975), and Mrs. Irene Storks-Cotter, formerly of that office and now at the Virginia Polytechnic Institute and State University, Blacksburg.

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species.

Dated: October 17, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-28806 Filed 10-24-83; 8:45 am]

BILLING CODE 4310-55-M